

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

ALEXANDRIA KELLEY,)
Plaintiff,) CV No.: _____
v.)
DECATUR BAPTIST CHURCH,)
Defendant.)

COMPLAINT

COMES NOW, the Plaintiff, Alexandria Kelley, and files this Complaint for discrimination based on sex and pregnancy in violation of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. §2000e, *et seq.*, against Defendant Decatur Baptist Church, Inc. As grounds for his Complaint, Plaintiffs shows this Court the following:

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this cause of action pursuant to 28 U.S.C. §§ 1331 and 1343, and 42 U.S.C. § 2000e, *et seq.*
2. Plaintiff has fulfilled all conditions precedent to the brining of this action under Title VII. Plaintiff filed charges of discrimination with the United States Equal Employment Opportunity Commission (“EEOC”) on September 28, 2015. (EEOC Complaint attached as Exhibit 1). Plaintiff received a Notice of Right to Sue from the EEOC on April 27, 2017 (Notice of Right to Sue

attached as Exhibit 2), and timely files this lawsuit within 90 days of receipt of said notice.

3. The Defendant is located and/or doing business within this judicial district and division. This action is brought within the judicial district wherein the unlawful employment practices were committed, making venue proper under 28 U.S.C. § 1331(b).

PARTIES

4. Plaintiff is a female individual, who is over the age of 18, and resides at 812 Pleasant Hill Rd, Decatur, Morgan County, Alabama 35603. At all material times of this lawsuit, Plaintiff was over the age of 19, and employed by the Defendant.

5. Defendant, Decatur Baptist Church, is an organization doing business within this judicial district and division. At all times material to this action, Defendant employed Plaintiff.

FACTS

6. Plaintiff was employed by Defendant from on or about March 17, 2015, through on or about August 27, 2015, when she was terminated on the basis of her pregnancy and gender.

7. Plaintiff held a position as a maintenance employee, and as a child care employee with Defendant.

8. During her employment with Defendant, Plaintiff received no disciplinary actions, nor did she have work performance issues.
9. In the Summer of 2015, Plaintiff became pregnant, at which time she notified her employer of her status.
10. When Pastor Danny Holmes became aware of Plaintiff's pregnancy, she was terminated on August 27, 2015.
11. Defendant specifically informed Plaintiff that she was terminated because of her pregnancy.
12. The EEOC issued a Letter of Determination on February 10, 2017 finding that violations of Title VII of the Civil Rights Act of 1964 occurred because evidence showed that Defendant discharged Plaintiff because of her pregnancy. (Letter of Determination attached as "Exhibit 3").

COUNT I

13. Plaintiff incorporates the previously numbered paragraphs as if fully set out herein.
14. Defendant discriminated against Plaintiff and terminated her on the basis of her pregnancy in violation of Title VII of the Civil Rights Act as amended by the Pregnancy Discrimination Act. 42 USCS § 2000e *et seq.*
15. Defendant's actions directly and proximately caused the Plaintiff to suffer damages in an amount to be determined by a struck jury.

WHEREFORE, Plaintiff demands judgments for all nominal damages, compensatory damages, attorney's fees, costs, expenses, and punitive damages permitted by law in an amount to be determined by a struck jury, and such other additional relief as the Court deems equitable and appropriate.

COUNT 2

16. Plaintiff incorporates the previously numbered paragraphs as if fully set out herein.

17. Defendant further discriminated against Plaintiff on the basis of her sex in violation of Title VII of the Civil Rights Act. 42 USCS § 2000e *et seq.*

18. Defendant's actions directly and proximately caused the Plaintiff to suffer damages in an amount to be determined by a struck jury.

WHEREFORE, Plaintiff demands judgments for all nominal damages, compensatory damages, attorney's fees, costs, expenses, and punitive damages permitted by law in an amount to be determined by a struck jury, and such other additional relief as the Court deems equitable and appropriate.

Respectfully submitted,

/s/ Jay E. Emerson
Jay E. Emerson
Attorney for the Plaintiff
Higgs & Emerson
405 Franklin St.
Huntsville, AL 35801

(256)533-3251(phone)
(256)533-3265(fax)
emerson@higgsandemerson.com

Copy served upon:

Decatur Baptist Church
c/o Danny Holmes, Pastor
2527 Danville Road
Decatur, AL 35603

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Birmingham District Office**



Ridge Park Place, Suite 2000
1130 22nd Street, South
Birmingham, AL 35205

Intake Information Group: 800.669.4000
Intake Information Group TTY: 800.669.6820
Birmingham Status Line: 866.408.8075
Birmingham Direct Dial: 205.212.2100
TTY 205.212.2112
FAX 205.212.2105
Website: www.eeoc.gov

Alexandria Kelley
c/o Jay E. Emerson, Jr., Attorney
Higgs & Emerson
405 Franklin Street
Huntsville, AL 35801

Re: Alexandria Kelley v. Decatur Baptist Church
Charge Number: 420-2016-00015

Dear Mrs. Kelley:

The U.S. Equal Employment Opportunity Commission (EEOC) has determined that efforts to conciliate the above referenced charge as required by Title VII of the Civil Rights Act of 1964, as amended have been unsuccessful. No further efforts to conciliate this case will be made by the EEOC. This letter constitutes the notice required by Section 1601.25 of the EEOC's Procedural Regulations which provide that it shall make written notification when it determines further conciliation efforts would be futile or non-productive.

The EEOC has determined that it will not bring a lawsuit against the Respondent. The issuance of the enclosed Notice of Right to Sue under Title VII concludes the processing of your charge by the EEOC. If you decide to sue the Respondent, you must file a lawsuit in Federal District Court within 90 days of receipt of this letter and Notice of Right to Sue.

If you file a lawsuit, please forward a copy of your court complaint to this office within 10 days of its filing. We can then preserve your file and consider your suit when taking other actions. If you have any questions or comments, you may contact the EEOC representative listed in the enclosed Notice of Right to Sue.

Sincerely,

APR 27 2017

Date Mailed

Delner Franklin-Thomas
District Director

Enclosure (Notice of Right to Sue - Conciliation Failure)



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**NOTICE OF RIGHT TO SUE
(CONCILIATION FAILURE)**

To: Alexandria Kelley
1 [REDACTED]
Decatur, AL 35603

From: Birmingham District Office
Ridge Park Place
1130 22nd Street
Birmingham, AL 35205

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No. EEOC Representative
420-2016-00015 **IRAN CRUZ,**
Investigator

Telephone No.
(205) 212-2134

TO THE PERSON AGGRIEVED:

This notice concludes the EEOC's processing of the above-numbered charge. The EEOC found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close its file in this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in your lawsuit if you decide to sue on your own behalf.

POSTED*7/26/17***- NOTICE OF SUIT RIGHTS -**

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice;** or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

APR 27 2017

Enclosures(s)

**Delner Franklin-Thomas,
District Director**

(Date Mailed)

cc:

DECATUR BAPTIST CHURCH
c/o Danny Holmes, Children's Pastor
2527 Danville Rd.
Decatur, AL 35603

HIGGS & EMERSON
c/o Jay E. Emerson, Jr., Attorney
405 Franklin Street
Huntsville, AL 35801

Enclosure with EEOC
Form 161-A (11/16)

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits and other provisions of State law may be shorter or more limited than those described below.)

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 – not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Birmingham District Office**

Ridge Park Place
1130 22nd Street, Suite 2000
Birmingham, AL 35205
Intake Information Group: 800-669-4000
Intake Information Group TTY: 800-669-6820
Birmingham Status Line: 866-408-8075
Birmingham Direct Dial: (205) 212-2100
TTY (205) 212-2112
FAX (205) 212-2105
Website: www.eeoc.gov

Charge No. 420-2016-00015

Alexandria Kelley
c/o Jay E. Emerson, Jr., Attorney
Higgs & Emerson
405 Franklin Street
Decatur, AL 35801

Charging Party

Decatur Baptist Church
c/o Danny Holmes, Pastor
2527 Danville Road
Decatur, AL 35603

Respondent

LETTER OF DETERMINATION

Under the authority vested in me by the Commission, I issue the following determination on the merits of the subject charge. Respondent is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended. Timeliness and all other requirements for coverage have been met.

Charging Party alleged that Respondent unlawfully discharged her due to her pregnancy, in violation of the Title VII of the Civil Rights Act of 1964, as amended. Respondent conceded that Charging Party was discharged because of her pregnancy but contend that Charging Party was discharged because of her unwed pregnancy in violation of its morality standards. Evidence showed that Charging Party was employed by Respondent as a child care worker when she became pregnant. Evidence showed that after Pastor Danny Holmes became aware of her pregnancy, he discharged her. Evidence showed that Respondent discharged Charging Party because of her pregnancy.

Upon finding that there is reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. If Respondent agrees to accept this invitation to participate in conciliation efforts, it may do so by accepting the enclosed agreement as presented or by providing a counter proposal to the Commission representative for purpose of conciliation is Iran Cruz, Investigator. You may Email/fax your response directly to Mr. Cruz at (205) 212-2105. Failure to respond in 14 days of

EXHIBIT

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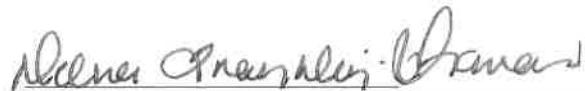
the date of this determination will indicate that you are not interested in conciliating this matter and the Commission will determine that efforts to conciliate this charge as required by Title VII, Section 706(b), have been unsuccessful.

If Respondent declines to participate in conciliation discussions or when, for any other reason, a Conciliation Agreement acceptable to the District Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

On Behalf of the Commission:

FEB 10 2017

Date Mailed


Delner Franklin-Thomas
District Director

Enclosure: Invitation to Conciliate